(Spl. - H.C.A.S. C.D., 78-e)

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF BOMBAY AT GOA

PANAJI – GOA

APPELLATE SIDE

CRIMINAL MISC. APPLICATION NO. 235/2004

Office Notes, Office Memoranda of Quorum appearances, Court's orders, or directions and Registrar's orders.	Court's or Judge's Orders.

Mr. S.N. Sardessai, Public Prosecutor for the applicant-State.

CORAM : B.H. MARLAPALLE &
N.A. BRITTO, JJ.

DATE : 15th December, 2004.

P.C.

The respondent was put on trial in Sessions Case No.34/2003 for the offences punishable under Section 341, 324, 395 and 506(II) of I.P.C. The learned IInd Ad-hoc Asst. Sessions Judge, at Panaji, by his order dated 28.6.2004 has been pleased to acquit the accused by giving benefit of doubt. The said order of acquittal has been challenged in Criminal Appeal in

Stamp Number 2796/2004 and hence this application for leave to appeal.

2. The incident was alleged to have taken place on 21.7.2003 at about 7.30 p.m. and the complainant was examined as PW.1 in addition to other five witnesses. The learned Judge has considered the evidence of all the witnesses, the memorandum of test identification parade and and also the fact that no recovery of any article was made at the instance of the accused. The investigation has also found to be scanty. PW.1 had clearly stated that at the time of assault, the assailants had covered their faces and there was no evidence to unmask this deposition.

4. We are, therefore, satisfied that the trial Court did not fall in error in appreciating the evidence and has rightly acquitted the accused by

giving benefit of doubt. Therefore, this is not a fit case to grant leave to appeal.

5. Appeal is rejected.

B.H. MARLAPALLE, J.

N.A. BRITTO, J.

ssm.